

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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JACK ROGERS and  
PAUL PINELLA,

Plaintiffs,

v.

COMCAST CORPORATION, and  
AT&T BROADBAND,

Defendants.

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: Case No. 04-10142-EFH  
: Honorable Edward F. Harrington  
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**DEFENDANTS' MOTION FOR LEAVE TO FILE A REPLY BRIEF  
IN SUPPORT OF THEIR MOTION TO COMPEL ARBITRATION**

Pursuant to Local Rule 7.1(B)(3), Defendants Comcast Corporation and AT&T Broadband (collectively "Defendants") move for leave of Court to file a reply memorandum to Plaintiffs' Opposition to Defendants' Amended Motion to Compel Arbitration. The reply addresses and responds to issues that are raised for the first time in Plaintiffs' Opposition, and provides substantial support for the conclusion that Defendants' motion to compel arbitration must be granted.

The damages sought in this case are substantial and the parties should have the opportunity to fully brief the Court on the issues. In addition, between the filing of Defendants' Motion to Compel Arbitration and the Plaintiffs' Opposition, the Court allowed limited discovery related to the issue of arbitration. Defendants' reply brief, which identifies and responds to the Plaintiffs' conclusory assertions and misstatements of fact and law, will assist the Court in ruling upon the Motion to Compel Arbitration.

On July 1, 2004, Plaintiffs Rogers and Pinella filed their Opposition to Defendants' Amended Motion to Compel Arbitration ("Rogers Opposition"). The substance of the Rogers

Opposition is identical to that of Class Plaintiffs' (Corrected) Opposition to Defendants' Amended Motion to Compel Arbitration in Kristian ("Kristian Opposition"). Indeed, the Rogers Opposition relies on precisely the same law and sets forth precisely the same legal arguments as does the Kristian Opposition. Therefore, rather than burden the Court with two identical reply briefs in support of its parallel motions, Defendants hereby adopt and incorporate by reference Defendants' Reply Brief in Support of Their Motion to Compel Arbitration, filed on July 22, 2004, in the matter styled Kristian v. Comcast Corp., Case No. 1:03-cv-12466-EFH, currently pending before this Court. A copy of Defendants' reply memorandum in Kristian is provided at Tab 1.

The arguments set forth in Defendants' Reply Brief in Support of Their Motion to Compel Arbitration in Kristian apply with equal force here and mandate that the Court compel arbitration of this case and the Kristian case. Accordingly, this Court should grant Defendants' Motion to Compel Arbitration.

July 22, 2004

Respectfully submitted,

/s/ Christopher F. Robertson

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**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that he has caused to be served a copy of **Defendants' Motion to File a Reply Brief in Support of Their Motion to Compel Arbitration** upon the parties listed on the attached Service List via U.S. Mail on the 22<sup>nd</sup> day of July, 2004.

/s/ Christopher F. Robertson  
Christopher F. Robertson